

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36093

STATE OF IDAHO,)	2009 Unpublished Opinion No. 670
)	
Plaintiff-Respondent,)	Filed: November 13, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
ERIC WEBB,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John T. Mitchell, District Judge.

Order revoking probation and reinstating previously suspended unified four-year sentence with one and one-half years determinate for felony possession of a controlled substance, without modification, affirmed.

Molly J. Huskey, State Appellate Public Defender; Erik R. Lehtinen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Eric Webb pled guilty to felony possession of a controlled substance, Idaho Code § 37-2732(c), and the district court imposed a unified four-year sentence with a one and one-half years determinate term. The court suspended the sentence and placed Webb on probation on the condition that he enroll in, and complete, mental health drug court. Webb successfully completed mental health drug court but subsequently violated the terms and conditions of his probation. The district court revoked his probation and ordered the suspended sentence into execution and retained jurisdiction. Following the period of retained jurisdiction, the district court again suspended the sentence and placed Webb on probation. Webb appeals contending

that the district court abused its discretion by failing to sua sponte reduce his underlying sentence upon initially revoking probation.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

When we review a sentence that is ordered into execution following a period of probation, we do not base our review solely upon the facts existing when the sentence was imposed. *State v. Whittle*, 145 Idaho 49, 52, 175 P.3d 211, 214 (Ct. App. 2007). Rather we also examine all the circumstances bearing upon the decision to revoke probation and require execution of the sentence, including events that occurred between the original pronouncement of the sentence and the revocation of probation. *Id.* Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Therefore, the order revoking probation and directing execution of Webb's previously suspended sentence, without modification, is affirmed.